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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/015,660

12/17/2001

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1046.1264

8518

21171 7590 03/04/2009
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EXAMINER

GEBRESILASSIE, KIBROM K

ART UNIT

PAPER NUMBER

2128

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/015,660	Applicant(s) FUJIWARA ET AL.	
	Examiner KIBROM K. GEBRESILASSIE	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 01/21/2009 has been entered.

2. Claims 1-15 are presented for examination.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example,

a. As per claims 1-15, Claims recite "first/second organization". It is unclear what "organization" to be, to represent, or to mean.

b. Claims recite "first/second intra-organization procedure". It is unclear what "first intra-organization" is to be, to represent, or to mean. What "procedure" is referring to? What is the difference between the "intra-organization" and first/second organization? Or what is the relationship between "intra-organization" and first/second organization?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

c. As per claims 1-15, claims appear to result in a mere manipulation of data and therefore would not provide for a practical application, as evidenced by lack of physical transformation or a useful, tangible, and concrete result.

For example, independent claims recite an "input data", "first data" or "second data", but the data's are not specific data's. The claims did not specify any particular type or nature of the data's; nor did it specify how or from where the data was obtained or what the data represented. Therefore, Claims as a whole represent mere abstraction; i.e. a disembodied nothing more than an "abstract idea" which as a whole do not provide for a practical application.

d. As per claims 6-10, a valid process under 35 USC § 101 must either 1) transform underlying subject matter, or 2) be tied to another statutory class, such as a particular apparatus. In order to qualify as a statutory process, the claim

should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps. In this case, claim 1 does not 1) transform underlying subject matter, or 2) does not be tied to another statutory class, such as a particular apparatus. Therefore, claim 6-10 are invalid under 35 USC § 101.

Further, a **recitation of a computer in the preamble does not appear to be sufficient to tie the process to a particular apparatus.** A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone (**See In re Hirao**, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1.951)).

e. As per Claims 11-15, claims do not seem to require any **hardware** or **physical components** to perform its function. As such, the claims appear to be **software per se** and are therefore non-statutory. A claim that recites a piece of software alone without any link to a hardware component is directed to non-statutory subject matter since there is no relationship between the computer software and hardware components which permits the functionality of the software to be realized. For example, claims recite "module", but in light of applicant's specification, the recited "module" is just software.

Claim Interpretation

7. Organization is interpreted as at least one of vendors, retailers and distributors.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over S. Umeda, and A. Jones "An Integration Test-Bed System for Supply Chain Management", 1998, in view of US Publication No. 2003/0097317 issued to Burk et al.
10. As per Claim 1, Umeda et al discloses a readable-by-computer recording medium recorded with a program read by a computer to manage data generated by a plurality of organizations on the basis of communication data transferred and received between said organizations, which executes:

inputting the communication data sent from a first organization to a second organization (such as...*collaborate to design and produce their products with their*

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business partners, such as vendors, retailers, and distributors...; See: page 1377, Col. 1 paragraph 2)...supply Chain management (SCM) is the management of material and information flows both in and between facilities in the chain, such as vendors, manufacturing plants, and distribution centers...;See: page 1377, Col. 1 paragraph 4 to Col. 2 paragraph 1);

recording first data generated by a first intra-organization procedure executed in said first organization when sending the-first communication data (such as....*the communication server contains three modules to communicate the tactical data among the suppliers...1. the supplier data driver collects three kinds of data: production data from supplier's factories, distribution data from retailers and demand data from resellers and customers, this module also publishes the management data for production and distribution...(See: page 1379, Col. 1)...these input/output data are transferred in real time mode and published by suppliers data driver....(See: page 1384, Col. 1 paragraph 2).*

Umeda et al teaches collaboration between modern manufacturing enterprises to design and produce products with business partners such as vendors, retailers and distributors and also comprises a VSM simulates business process flow and information flow within the chained companies. However, Umeda et al is silent whether VSM is comparing and updating the difference between data's.

Burk et al discloses comparing a content of second data with a content of the recorded first data, wherein the second data is generated by the first intra-organization procedure executed in said first organization when sending second communication

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data; and updating the recorded first data when the content of the second data is different from the content of the recorded first data (such as...*A plurality of stores of a supply chain are registered utilizing a network in operation 9232. The registration includes receiving first identification information. Data is collected from a plurality of stores of the supply chain utilizing the network in operation 9234. This data relates to the sale of goods by the stores and includes second identification information more recent than the first identification information. Access to the data is allowed utilizing a network-based interface in operation 9236 so that in operation 9238 the first identification information can be compared with the second identification information in order to allow for the updating of the registration of the stores based on the comparison in operation 9240..; See: par [1537]).*

It would have been obvious to one of ordinary skill in the art to combine the teachings of Burk et al with the teachings of Umeda et al because both reference concern with supply chain management. The motivation to do so would be to equip retailer with accurate, timely, and previously unavailable information from the supply chain and fully engage in managing supply and distribution processes (Burk et al).

11. As per Claim 2, Umeda et al discloses A readable-by-computer recording medium recorded with a program read by a computer to manage data generated by a plurality of organizations on the basis of communication data transferred and received between said organizations, which executes:

inputting the communication data sent from a first organization to a second organization (such as...*collaborate to design and produce their products with their*

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business partners, such as vendors, retailers, and distributors...; See: page 1377, Col. 1 paragraph 2)...supply Chain management (SCM) is the management of material and information flows both in and between facilities in the chain, such as vendors, manufacturing plants, and distribution centers...;See: page 1377, Col. 1 paragraph 4 to Col. 2 paragraph 1);

detecting reply data to the communication data sent to said first organization from said second organization (such as... *status information on existing orders from suppliers...;See: page 1381, Col. 1 paragraph 5);*

recording first data generated by an intra-organization procedure executed in said second organization when sending first communication data (such as....*the communication server contains three modules to communicate the tactical data among the suppliers...1. the supplier data driver collects three kinds of data: production data from supplier's factories, distribution data from retailers and demand data from resellers and customers, this module also publishes the management data for production and distribution...(See: page 1379, Col. 1)...these input/output data are transferred in real time mode and published by suppliers data driver....(See: page 1384, Col. 1 paragraph 2);*

Umeda et al teaches collaboration between modern manufacturing enterprises to design and produce products with business partners such as vendors, retailers and distributors and also comprises a VSM simulates business process flow and information flow within the chained companies. However, Umeda et al is silent whether VSM is comparing and updating the difference between data's.

Burk et al discloses comparing a content of second data with a content of the recorded first data, wherein the second data is generated by the first intra-organization procedure executed in said first organization when sending second communication data; and updating the recorded first data when the content of the second data is different from the content of the recorded first data (such as...*A plurality of stores of a supply chain are registered utilizing a network in operation 9232. The registration includes receiving first identification information. Data is collected from a plurality of stores of the supply chain utilizing the network in operation 9234. This data relates to the sale of goods by the stores and includes second identification information more recent than the first identification information. Access to the data is allowed utilizing a network-based interface in operation 9236 so that in operation 9238 the first identification information can be compared with the second identification information in order to allow for the updating of the registration of the stores based on the comparison in operation 9240..; See: par [1537]).*

It would have been obvious to one of ordinary skill in the art to combine the teachings of Burk et al with the teachings of Umeda et al because both reference concern with supply chain management. The motivation to do so would be to equip retailer with accurate, timely, and previously unavailable information from the supply chain and fully engage in managing supply and distribution processes (Burk et al).

12. As per Claim 3, Umeda et al discloses a readable-by-computer recording medium recorded with a program according to claim 1, wherein said computer further executes:

detecting reply data sent to said first organization from said second organization (such as... *status information on existing orders from suppliers...*; See: page 1381, Col. 1 paragraph 5);

recording third data generated by a second intra-organization procedure executed in said second organization when sending the first communication data (such as....*the communication server contains three modules to communicate the tactical data among the suppliers...1. the supplier data driver collects three kinds of data: production data from supplier's factories, distribution data from retailers and demand data from resellers and customers, this module also publishes the management data for production and distribution...*(See: page 1379, Col. 1)...*these input/output data are transferred in real time mode and published by suppliers data driver...*(See: page 1384, Col. 1 paragraph 2);

Umeda et al teaches collaboration between modern manufacturing enterprises to design and produce products with business partners such as vendors, retailers and distributors and also comprises a VSM simulates business process flow and information flow within the chained companies. However, Umeda et al is silent whether VSM is comparing and updating the difference between data's.

Burk et al discloses comparing a content of fourth data with a content of the recorded third data, wherein the fourth data is generated by the intra-organization procedure executed in said second organization when sending second communication data; and updating the recorded third data when the content of the fourth data is different from the content of the recorded third data (such as...*A plurality of stores of a*

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supply chain are registered utilizing a network in operation 9232. The registration includes receiving first identification information. Data is collected from a plurality of stores of the supply chain utilizing the network in operation 9234. This data relates to the sale of goods by the stores and includes second identification information more recent than the first identification information. Access to the data is allowed utilizing a network-based interface in operation 9236 so that in operation 9238 the first identification information can be compared with the second identification information in order to allow for the updating of the registration of the stores based on the comparison in operation 9240..; See: par [1537]).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Burk et al with the teachings of Umeda et al because both reference concern with supply chain management. The motivation to do so would be to equip retailer with accurate, timely, and previously unavailable information from the supply chain and fully engage in managing supply and distribution processes (Burk et al).

13. As per Claim 4, Burk et al discloses a readable-by-computer recording medium recorded with a program according to claim 3, wherein said computer further executes comparing the recorded first data with the recorded third data, and detects difference data between the organizations (such as...*This data relates to the sale of goods by the stores and includes second identification information more recent than the first identification information. Access to the data is allowed utilizing a network-based interface in operation 9236 so that in operation 9238 the first identification information can be compared with the second identification information in order to allow for the*

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updating of the registration of the stores based on the **comparison** in operation 9240..;

See: par [1537]).

14. As per Claim 5, Umeda et al discloses a readable-by-computer recording medium recorded with a program according to claim 3, wherein said computer further executes coupling the recorded first data and the recorded third data together, and tracks the procedures executed between the organizations (such as....*the communication server contains three modules to communicate the tactical data among the suppliers...1. the supplier data driver collects three kinds of data: production data from supplier's factories, distribution data from retailers and demand data from resellers and customers, this module also publishes the management data for production and distribution...*(See: page 1379, Col. 1).

15. As per Claims 6-15, the instant claims recite substantially same limitation as the above rejected claims 1-5, and therefore rejected under the same rationale.

Conclusion

16. All claims are rejected.

17. **Support for Amendments and Newly Added Claims**, Applicants are respectfully requested, in the event of an amendment to claims or submission of new claims, that such claims and their limitations be directly mapped to the specification, which provides support for the subject matter. This will assist in expediting compact prosecution. MPEP 714.02 recites: "Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP § 2163.06. An

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amendment which does not comply with the provisions of 37 CFR 1.121(b), (c), (d), and (h) may be held not fully responsive. See MPEP § 714." Amendments not pointing to specific support in the disclosure may be deemed as not complying with provisions of 37 C.F.R. 1.131(b), (c), (d), and (h) and therefore held not fully responsive. Generic statements such as "Applicants believe no new matter has been introduced" may be deemed insufficient.

18. **Requests for Interview**, In accordance with 37 CFR 1.133(a)(3), requests for interview must be made in advance. Interview requests are to be made by telephone (571-272-8634) call or FAX (571-273-8634). Applicants must provide a detailed agenda as to what will be discussed (generic statement such as "discuss §102 rejection" or "discuss rejections of claims 1-3" may be denied interview). The detail agenda along with any proposed amendments is to be written on a PTOL-413A or a custom form and should be faxed (or emailed, subject to MPEP 713.01.I / MPEP 502.03) to the Examiner at least 3 days prior to the scheduled interview.

Interview requests submitted within amendments may be denied because the Examiner was not notified, in advance, of the Applicant Initiated Interview Request and due to time constraints may not be able to review the interview request to prior to the mailing of the next Office Action.

Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIBROM K. GEBRESILASSIE whose telephone number

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is (571)272-8571. The examiner can normally be reached on 8:00 am - 4:30 pm
Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on 571-272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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